

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ANTHONY GRENIER,

Plaintiff,

No. CIV S-08-2263 GGH P

vs.

ARNOLD SCHWARZENEGGER,
Governor, et al.,

Defendants.

ORDER

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Plaintiff is state prisoner housed at Avenal State Prison who has filed a document entitled “petition for writ of mandate and declaratory relief” Plaintiff seeks enforcement of a 2002 “stipulation for injunctive relief” issued in Plata v. Davis, a class action now proceeding as Plata v. Schwarzenegger, N.D. Cal, No. C01-1351 THE. Plaintiff claims to be a member of the Plata class, a state prisoner with serious medical needs, and that prison officials at Avenal State Prison are not in compliance with the Plata injunction, demonstrating deliberate indifference to his serious medical needs.

A plaintiff who is a member of a class action for equitable relief from prison conditions may not maintain a separate, individual suit for equitable relief within the same subject matter of the class action. Gillespie v. Crawford, 858 F.2d 1101, 1103 (5th Cir. 1988) (en

banc) (adopting a rule “similar to that of the Sixth and Eighth Circuits,” precluding individual lawsuits for equitable relief by class action members, averring that such actions “would interfere with the orderly administration of the class action and risk inconsistent adjudications”)¹; see also, McNeil v. Guthrie, 945 F.2d 1163, 1165-1166 (10th Cir. 1991) (precluding individual lawsuits for injunctive relief alleging unconstitutional prison conditions when there is an existing class action); Crawford v. Bell, 599 F.2d 890, 892-93 (9th Cir. 1979); Choyce v. Saylor, 2007 WL 3035406 *1 (N.D. Cal. 2007)(“[i]ndividual suits for injunctive and equitable relief from alleged unconstitutional prison conditions cannot be brought where there is a pending class action suit involving the same subject matter”); Jacobson v. Schwarzenegger, 357 F. Supp.2d 1198, 1209 (C.D. Cal. 2004); Rouser v. White, No. CIV S-93-0767 LKK GGH P, 2006 WL 1897125, at *2 (E.D. Cal. 2006). The undersigned will direct that this matter be transferred to Judge Thelton Henderson in the Northern District before whom the Plata class action proceeds.

Accordingly, IT IS ORDERED that the Clerk of the Court is directed to transfer this case to Judge Thelton Henderson in the Northern District of California.

DATED: 10/03/08

/s/ Gregory G. Hollows

UNITED STATES MAGISTRATE JUDGE

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¹ The Gillespie Court found that individual class members could pursue equitable relief claims “by urging further action through the class representative and attorney, including contempt proceedings, or by intervention in the class action.” Id.